

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13950, of Fourways, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Sub-sections 7105.2 and 7104.2 to change a non-conforming use of administrative offices for a restaurant to use all of the third floor for general office use and all of the fourth floor for administrative offices for a restaurant and for modification of condition Nos. 2 and 3 of BZA Order No. 13748, dated August 27, 1982, to permit modifications to the site plan in an R-5-B District at premises 1701 - 20th Street, N.W., (Square 110, Lot 60).

HEARING DATE: April 20, 1983
DECISION DATE: May 4, 1983

FINDINGS OF FACT:

1. The subject property is located on the northeast corner of the intersection of 20th and R Streets, N.W., and is known as premises 1701 20th Street, N.W. It is in an R-5-B District.
2. The site is generally rectangular in shape containing approximately 14,321 square feet with approximately 943 feet of frontage on R Street and approximately 100 feet of frontage on 20th Street. The site is improved with a four-story masonry structure with a cellar and sub-cellar. The structure contains a total gross floor area of approximately 14,050 square feet. It was constructed in 1890.
3. The subject structure is located in the southwest corner of the site. Extending from the west and south exterior walls of the structure is a twelve to fourteen foot high masonry wall with openings for pedestrian and vehicular access extending along the perimeter of the site. A vehicular drive serves the structure from 20th Street at the main pedestrian entrance. A secondary entrance is located on the north side of the structure with access through a pedestrian gate from 20th Street.
4. The subject site is located approximately fifty feet from Connecticut Avenue and less than two blocks from Dupont Circle. To the east and north of the site for approximately two blocks is a residential area characterized by a variety of single-family and multi-family housing types in the R-5-B District followed by New Hampshire Avenue with a variety of usages in the SP District. To the south across

R Street is a restaurant with an outdoor cafe followed by other commercial uses fronting on Connecticut Avenue in the C-3-B District. To the west and northwest across 20th Street are commercial properties fronting on Connecticut Avenue in the C-3-B District.

5. The subject structure was designated a landmark and placed on the National Register of Historic Places in 1974. Originally known as the Scott-Thropp House, it is presently known as the Fraser House.

6. The structure was originally designed by the architects Hornblower and Marshall as a residence for George S. Fraser, a merchant who came to the District of Columbia from New York City in 1888.

7. The house was occupied as a residence until 1932 when the Parrot Tea Room was opened as a restaurant with a rooming house upstairs. It then became the Golden Parrot Restaurant for the next twenty-four years. In 1974 the Golden Parrot Restaurant went out of business. Since then, four restaurants have located in the structure and have also gone out of business.

8. The subject site is currently zoned R-5-B. It was zoned first commercial prior to 1958.

9. In Order No. 13748, dated August 27, 1982, this Board approved the applicant's request to extend the restaurant use to the second floor and the restaurant administrative offices to part of the third floor. The Board further approved the continuance of an outdoor cafe and the construction of an elevator and dumbwaiter.

10. Current certificates of occupancy permit restaurant use of the cellar, first and second floors, restaurant office use for part of the third floor and rooming house use for the remainder of the third floor and the entire fourth floor. The building is currently occupied by a restaurant known as Fourways.

11. The applicant proposes to use the entire third floor for general office use and the entire fourth floor for restaurant office use. The third floor general office use will have a separate entrance. The structure will be restored and maintained in its original architectural character and ambience as a first class restaurant. No exterior renovations or alterations will be made to the structure.

12. The original renovation and restoration costs were estimated at \$1.7 million. To date, \$3 million has been spent and the project has not been completed. Renovation costs included removing wood from the first floor which was

part wood and concrete. Duct work which existed on the exterior of the structure was relocated on the interior as required by the Joint Committee on Landmarks at a cost of approximately \$85,000. Delays of four months kept the second floor from opening because of difficulties in obtaining a liquor license. On February 21, 1983, a fire broke out in the roof of the mansion causing \$750,000 to \$1 million of damage. The building was closed for ten days and repair work is continuing.

13. The applicant is proposing to off-set the cost of renovations by leasing the third floor office space to commercial tenants. Potential tenants would include economists, trade associations, architects, journalists, graphic designers and other professionals permitted in the SP District. The office use would be self-contained. Entrance and exit for the office space would be through the aforementioned secondary entrance with access to the interior elevator and stairwell.

14. The applicant is an internationally known restaurateur whose philosophy is to provide a handsome atmosphere and good food. The applicant owns two restaurants and a hotel which have all been critically acclaimed. Further, the subject restaurant has been favorably reviewed by local food critics.

15. The fourth floor of the structure is not being used as contemplated under the Board's previous Order No. 13748 as apartments for employees and the owner. It was intended that sleeping accommodations would be available at no cost to the staff when working late if they decided to stay over night. No employee has since requested to stay over night.

16. The fourth floor contains approximately 1,700 square feet of floor area and one bathroom.

17. The third floor contains approximately 3,000 square feet of floor area and three bathrooms. The applicant anticipates leasing the third floor for approximately \$18 to \$20 per square foot.

18. Condition No. 2 in BZA Order 13748 stated that "[T]he areas devoted to outdoor dining and parking shall be as shown on the Landscape and Site Plan, Sheet SP-2 of Exhibit No. 20."

19. Condition No. 3 stated that "[T]he curb cut located on 20th Street to the north of the driveway entrance shall be eliminated."

20. The applicant intends to improve the parking and circulation conditions on the site by shifting the location of the outdoor cafe, thereby opening another means of

ingress and egress on 20th Street. Approval of a revised site plan, indicating the current curb cut on 20th Street, is necessary to accomplish this request.

21. The relocated outdoor cafe would extend about 18.5 feet from the south wall of the structure in public space ending just inside an existing three foot high terra cotta wall at the sidewalk. The outdoor cafe would have a red brick terrace area matching the brick of the structure extending approximately ten feet from the existing terra cotta wall. A new thirty inch high retaining wall will be constructed to create a planter between the brick terrace and the structure where existing trees will be relocated.

22. Relocating the outdoor cafe to the south side of the structure is more compatible with the R Street frontage and an existing outdoor cafe directly across R Street to the south. It would be incompatible on the north side of the structure being exposed to the abutting residential property. Sounds generated by the outdoor cafe could effect the neighboring residential property.

23. No exterior changes will be made to the structure. Renovations will only occur on the interior and will include the installation of a hydraulic elevator and a fire stair both to be located in the northwest portion of the structure near the secondary entrance. The proposed hydraulic elevator does not require a penthouse or roof top equipment.

24. The existing curb cut on 20th Street will be retained for access to the parking lot to create a one-way flow of traffic entering the site at 20th Street and exiting onto R Street. The present parking lot contains eighteen parking spaces. Twenty-six spaces are now proposed to be operated as attendant parking.

25. The peak demand in the evening for parking would be eighteen to twenty parking spaces. At noon, the peak demand would be in the range of thirteen to fifteen spaces. From a traffic operations view point, the proposed restaurant and office uses are compatible. The office use is principally a daytime use and the restaurant peaks in the evening.

26. Connecticut Avenue a major arterial, is six lanes wide, with two-way traffic, carrying an average daily volume of approximately 29,000 vehicles.

27. R Street is a one-way minor arterial street, westbound, thirty feet wide, carrying approximately 7,000 vehicles a day. There are eight two-hour parking meters and four residential permit parking spaces on the north side of the street. No parking is permitted on the south side between 7:00 A.M. and 6:30 P.M. At other times there is no restriction.

28. Twentieth Street is a one-way northbound local street, twenty-eight feet wide, carrying approximately 1500 vehicles a day. Parking is permitted on both sides of the street. There is two-hour residential permit parking, with space for approximately nineteen cars, on the east side, and six one-hour meters and five two-hour meters on the west side.

29. The intersections of Connecticut Avenue and R Street, and 20th and R Streets are controlled by two-phase signals. The former intersection operates at a D level of service during peak hours. The latter intersection operates at a B level of service during peak hours.

30. The site is adequately served by public transportation. One block away from the site is a Metrorail portal at Connecticut Avenue and Q Street. Eleven Metrobus routes serve the site: H6, L1, L3, L4, L7, L8, L9, 40, 42, 44 and 46.

31. The applicant's traffic expert testified that condition No. 3 of BZA Order No. 13748 should be eliminated because it does not achieve safe and efficient traffic operations. The restriction would require any driver who would be approaching from the south, by Connecticut Avenue, to circle around the block, after first driving past the restaurant entrance, to reach the R Street driveway. It would thereby increase traffic through the neighborhood. It would result in excessive use of the drop-off driveway at the restaurant entrance, with excessive re-entries back onto 20th Street, probably increasing the number of conflicts between pedestrians and vehicles. It would also require all entries and exits to and from the parking lot to be made at a single point, and it would severely restrict the flexibility of the parking lot management. The Board concurs.

32. Loading facilities are provided on-site at the rear of the structure. Deliveries will continue to be made early in the day so as not to disturb patrons, neighbors or disrupt traffic.

33. The applicant is currently renovating and improving the existing historic landmark so that it may be used and enjoyed by the public. This conforms with Sections 451 and 452 of the adopted "District of Columbia Comprehensive Plan Goals and Policies Act of 1978" which states that "[I]t is the Goal of the District of Columbia to increase awareness of, and access to, facilities places and activities essential to residents' and visitors' understanding of their culture and history ..." and that it is the policy of the City to promote the preservation and use of such historic sites.

34. The Joint Committee on Landmarks has given its conceptual approval to the revised site plan.

35. Pursuant to Sub-section 7104.2 of the Zoning Regulations, a Class II non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted. The Zoning Administrator has determined that the previous restaurant office use on part of the third floor of the subject structure was a non-conforming use in the R-5-B District. A restaurant office use is first permitted in the C-1 District.

36. The proposed use of the third floor of the subject structure as general offices is also a permitted C-1 use. Accordingly, pursuant to Sub-section 7104.2, a change of non-conforming use may be granted subject to the provisions of Section 7109.

37. Pursuant to Sub-section 7105.2, a Class II non-conforming use may be extended to other portions of the structure devoted to such use, provided no structural alterations are made and no other structure is involved in the extension of the non-conforming use. The subject property now provides for the non-conforming use as restaurant offices on part of the third floor. The applicant intends to extend the restaurant office use to the fourth floor. No structural alterations or other structures are involved in the extension.

38. The applicant stated that it would conduct the proposed use in accordance with the standards for external effects established for the C-M District.

39. The applicant does not intend to change the restaurant sign previously approved by the Board. Any sign erected to identify the general office use tenant shall meet the requirements of all Zoning and Sign Regulations.

40. The Office of Planning, by report filed April 13, 1983, recommended conditional approval based on the following:

- a. The property is located in the vicinity of Connecticut Avenue which contains a variety of uses including office use. It was the Office of Planning's opinion that although the proposed office use in the subject building is not a neighborhood facility, it would not be objectionable if its conduct is appropriately controlled to prevent adverse impact. It was the Office of Planning's opinion that the central concern in this case is the preservation and restoration of a landmark building if possible. Experience over several years suggests that restaurant use for the entirety of this rather large Victorian building may not be economically viable on all floors, and

that an additional use such as offices may be needed for economically sound preservation.

- b. The Office of Planning further reported that there is one main entrance to the building located at 20th Street. If not controlled, the office and restaurant use may conflict. The Board's Order No. 13748 limits the restaurant operation in the building by Four Ways, Inc. This condition may or may not have to be changed. The proposal now before the Board involves a reduction in landscaping although the number of parking spaces would be increased from fourteen to twenty-six.

The Office of Planning was of the opinion that the application can be approved with appropriate safeguards subject to a finding by the Board that the location of general offices in the building is essential to preserve the Building's character and ambience. The Board concurs with the recommendation of the Office of Planning. The Board in granting the relief will condition its approval to address the concerns of the Office of Planning.

41. A representative of the Dupont Circle Citizens Association appeared in opposition to the application for the following reasons:

- a. The proposed general office use is creating a new non-conforming use in the structure and it will be objectionable.
- b. There is no justification under Paragraph 7109.11 for the extension of the restaurants administrative offices, a non-conforming use.
- c. The relocation of the outdoor cafe is not in keeping with the historic nature of the mansion.
- d. Valet parking on the site will have an adverse affect and the curb cut on 20th Street should be closed.

42. In response to the issues raised by the Dupont Circle Citizens Association, the Board finds as follows:

- a. The proposed general office use is consistent with the requirements of Sub-section 7104.2 as stated in Findings Nos. 35 and 36. The use of the third floor as general offices will not be objectionable since the applicant is receptive to be limited to choosing a compatible tenant with both the restaurant and the neighborhood. The proposed office use will be limited to the third

floor consisting of 3,000 square feet of floor area and it will be self-contained.

- b. The Board finds there is justification under Paragraph 7109.11 to permit the extension of the restaurant administrative offices to the fourth floor. The restaurant use is a neighborhood facility and has served the neighborhood since 1932. The present and future character of the neighborhood will not be adversely affected since the site is in close proximity to Connecticut Avenue and Dupont Circle which contain a wide variety of uses including restaurants. The applicant will comply with the standards of external effects pursuant to Sub-section 6101.6 of the Zoning Regulations. The applicant will renovate and redecorate the interior of the structure in an attractive and compatible manner. There will not be any renovation or alteration to the exterior of the building. The restaurant use including its administrative offices were previously found to be compatible in BZA Order No. 13748.
- c. The Board does not have jurisdiction over the location of the outdoor cafe in public space. It will be the jurisdiction of the Public Space Committee to act on the outdoor cafe issue.
- d. The Board finds the valet parking and the continued use of the curb cut on 20th Street will not have an adverse affect on nearby property or adjoining streets. Valet parking will increase the number of on-site parking spaces well above the required amount. Due to the existing twelve to fourteen foot high wall along the perimeter of the site, many of the cars will not be seen from the adjoining property and other potentially adverse effects will also be screened. Use of the existing 20th Street curb cut will improve traffic circulation on-site causing fewer vehicles to travel on nearby residential streets.

43. A resident of 1738 19th Street, N.W. testified in opposition to the application, noting that special attention should be given to parking arrangements and around the site. The Board finds that it has already discussed this issue and it finds no adverse affects.

44. Advisory Neighborhood Commission 2B, by letter dated April 11, 1983, recommended approval of the application subject to a covenant being attached to the property protecting the first and second floors as well as

the main stairway. The Board finds that such a covenant concerns itself with the preservation issue and not a zoning issue. The parties may enter into such a covenant outside the jurisdiction of the BZA.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions and a modification of Condition Nos. 2 and 3 of BZA Order No. 13748. Special exceptions can be granted if the applicant through substantial evidence has established that it has met the requirements of Sub-sections 7105.2, 7104.2 and Section 7109 of the Zoning Regulations and that under Sub-section 8207.2 the relief can be granted as in harmony with the purpose and intent of the Zoning Regulations and will not affect adversely the use of neighboring property.

The Board concludes that the proposed extension of the restaurant offices is a neighborhood facility since the site has been used as a restaurant and has served the neighborhood as such since 1932. Moreover, the proposed office use will not be objectionable. Due to the existing development and wide variety of uses in the vicinity, the present character and future development of the neighborhood will not be adversely affected. The application also complies with the "District of Columbia Comprehensive Plan Goals and Policies Act of 1978." The applicant must comply with the standards of external effects established in Sub-section 6101.6 of the Zoning Regulations. There will be no emission or escape of any objectionable smoke, gas, sound or objects. The Board concludes that the requirements of Sub-paragraph 7109.113 have been met.

The Board, therefore, concludes that the special exceptions can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of the neighboring property. The applicant is in compliance with Sub-section 8207.2 of the Zoning Regulations.

The Board concludes that the revised site plan will improve traffic circulation and safety and that the curb cut located on 20th Street is necessary.

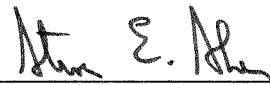
The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled. It is therefore ORDERED that the application is GRANTED in its entirety SUBJECT to the following CONDITIONS:

1. Approval shall be limited to operation of the restaurant by Four Ways, Inc.

2. The applicant shall provide valet parking during all hours of operation of the restaurant.
 3. All parking provided shall be in the subject lot. No vehicles shall be parked in the public space at any time.
 4. Ingress to the parking area shall be from 20th Street and egress shall be onto R Street via the driveways shown on the plans marked as Exhibit No. 11 of the record.
 5. The sign advertising the restaurant use shall be as approved in BZA Order No. 13748, condition 4.
 6. Landscaping shall be provided in accordance with the plans marked as Exhibit No. 11 of the record.
 7. The offices located on the third floor shall be limited to the office uses permitted in the SP District.
 8. The offices located on the fourth floor shall be used solely for the restaurant's purposes.
 9. The restaurant shall be operated in compliance with the standards of external effects established for the C-M District in Sub-section 6101.6 of the Zoning Regulations.
- VOTE: 5-0 (Walter B. Lewis, Carrie Thornhill, William F. McIntosh, and Charles R. Norris to grant; Douglas J. Patton to grant by proxy.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

SEP 20 1983

FINAL DATE OF ORDER: _____

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.